

ad By: SHERILA  
CKER

Filed: 6/5/2020 8:00 AM

Number: CV2020-  
000055

LEE Circuit

Camille Roberts Dulaney

Judge: JRW

## CIRCUIT COURT OF LEE COUNTY, STATE OF MISSISSIPPI

Sherila Tucker

CV20-055 (W)L

(Case ID Number)

Plaintiff

USDC No. 1:21cv12-DMB-RP

-VS-

The Hershey Company

Defendant

## AFFIDAVIT

I, Plaintiff: Sherila Tucker, of Potts Camp, in Marshall, Mississippi, MAKE OATH AND SAY THAT:

1. On October 7, 2015, I (Sherila Tucker) Purchase a bag of Halloween candy mixture of mini bites. This product was made by The Hersey company. My purchase was made at Dollar General located at 705 South Gloster, Street in Tupelo Ms. On the 8th October, 2015. I begin to eat a piece of this candy, When I experience a hard substance in the mixture. The substance was so hard it cracked my denture in half. I spit out small black hard substance, while other pieces had digested.

I became, dizzy, a feeling of oxygen was deprive from her body, as I fought to breath. I became unconscious, for several minutes, I was told by my husband. Wayne Tucker. I was rush to Holly Springs, hospital, as they refereed me to Baptist Desoto hospital, where they sent me to Methodist University Hospital. I was kept overnight for observation. I was refereed from the Methodist straight to the Surgery Center in Tupelo Ms. I then had to have A Gastric- Bypass done. Surgeon was DR. Terry Pinson.

2. Plaintiff: I Sherila Tucker, sent a letter to The Hersey Company, about, what had happen to me.

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3. The Hersey company replied to me ( Mrs. Tucker )with a letter informing her to return all remaining parts of the candy. Exhibit A is available. Letter was sent by Senior Claim Adjuster Judy Hecker, whom also stated in letter there was no guarantee that they would pay for dental work , and they would consider reviewing my (REASONABLE) Medical expenses. I had to pay for everything. Never receive any assistance from Hersey Company.
4. During this same year there was other lawsuits against the company exhibit B is available..
5. I, Sent in a portion of the candy,she ask for. not the entire remaing as she stated. I then did research on my own findings, ( pieces of black metal was in the candy) Hersey Company stated that there was pieces of fragment of Carbonized. Which means:
  - 6.Its converted into carbon or charcoal, typically by heating or burning or during fossilization.
  - 7."carbonized foodstuffs discovered during excavations at the ancient town of Herculaneum" .  
"peat is partially carbonized plant material that forms in bogs over hundreds of years"  
covered with a layer or deposit of carbon.
8. When carbon dioxide gas is released in a confined or unventilated area, it can lower the concentration of oxygen to a point where it is dangerous for human health. This can cause asphyxiation, which means that it becomes hard to breathe normally and you begin to feel like you are choking.  
Carbonization produces substances which can prove harmful and simple precautions should be taken to reduce risks.
6. I Sherila Tucker, state that since the incident with this candy, taken place. My body has begin to deteriorate. This has affected my kidneys, I can take Tylenol for pain, no over the counter meds. I can not take any antibiotics. I am current on blood pressure medicine and meds for my kidney ( fluid pills) to keep the fluid overload out of my heart., The pills was prescribe by Dr. Hussian, located at Benton Medical Center in Ashland MS. I recently had a EKG on my heart, showing Abnormal very slow heart rhythms condition called (bradycardia). I have GERD, known as Gastroesophageal reflux disease. (Chronic Reflux). Due to the acid in my stomach from the candy. I use to sing in my church, I was tested and by MD Shane Tucker , a liscense ENT that was in New Albany Ms ,during the time.His finding were , my esophagus and vocal cord was damage indefinitely. I also visit another doctor in Tupelo Ms. Dr. Matthew ENT. whom confirmed this.

Affidavit

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7. I can not afford to quick my job, I have bills. I am constantly drained. I have breathing problems, fatigue. I my legs and hands and face swell from kidneys. The burning inside of me from the GERD, is devastating. I had to get the Gastric Bypass surgery, something I should have never went through, depleting my body of all vitamins, and nutrition. I have to take vitamins for lifetime.

Due to negligence on behalf of the Hersey Company, I ask that this court of Lee County , review the tort of negligence on behalf of the wrong that has been done too me , and remedy the liability of damages owed to me in the amount of that damage which contribute to lifetime . Amount as requested a sum of 1.7 Million dollars.

STATE OF MISSISSIPPI

COUNTY OF LEE

SUBSCRIBED AND SWORN TO BEFORE

ME, on the 5th day of June, 2020

Signature

(Seal)

NOTARY PUBLIC

My Commission expires

1-1-24

Plaintiff: Sherila Tucker

(Signature)

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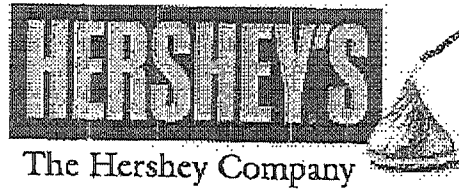


Exhibit  
A

October 14, 2015

Ms. Sherila Tucker  
1349 O M Cox Rd  
Potts Camp, MS 38659-8242

Reference#: 009249968A

Dear Ms. Tucker:

Thank you for contacting us about Candy Assortment. I am sorry to learn of your experience and apologize for the concern this has caused you.

The Hershey Company takes product quality and safety issues very seriously. This is our top priority. We have a strong record for quality and safety at all the facilities where we manufacture our products. Every product we make is manufactured under a strict product excellence program that includes metal detectors, visual inspections and a variety of other techniques to ensure that when products leave any of our facilities, they are safe to consume.

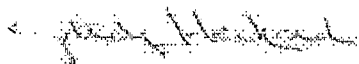
In order for us to assess the situation, please comply with the following:

1. Return the remaining product, packaging, and object, using the pre-paid mailing envelope. Please secure the object separately in order to prevent its loss.
2. To maintain your goodwill as our consumer, we will consider reviewing your reasonable medical expenses related to this incident. If you wish us to do so, please send copies of your medical bills that were a result of this incident.

After receipt of the above documentation, and a review of the facts as presented, your claim will be evaluated. Please note that a review of your dental claim is not a guarantee of payment.

Thank you for contacting our company. We look forward to receiving the information requested. In the meantime, if you have any questions please call me at the number below.

Sincerely,

  
Judy Heckard  
Senior Claims Adjuster, The Hershey Company  
(P) 717-534-3639 (F) 717-534-7157

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## **Hershey, Mars and See's Candies face heavy metal chocolate lawsuit**

By Erika S. Feltz, Staff Writer  
Feb 16, 2015 11:07 AM PST

Non-profit As You Sow has accused Hershey, Mars and See's Candies of failing to label lead and cadmium content in chocolate contrary to Californian law.

<https://www.confessionerynews.com/article/2015/02/16/lead-and-cadmium-metals-in-chocolate-hershey-and-mars-face-lawsuit>





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## Experimental

Low magnification optical images of the dried residue from the sample were obtained using a Leica MZ12 stereo zoom. The images were collected and archived using a JVC 3-CCD digital camera and PVR Plus software.

A single black solid fragment was isolated from the sample and washed in deionized water to remove residual candy. The fragment was then crushed between two clean microscope slides and mounted on a conductive carbon sticky tab. A reference sample of a candy fragment was similarly mounted and analyzed using EDX. A JEOL JSM-6010LA scanning electron microscope equipped with a silicon-drift digital x-ray detector was used to collect the x-ray spectrum and secondary electron images of the sample at an accelerating voltage of 20 kV. JEOL "In Touch Scope" software was used to collect and archive the resulting spectra and images. The elemental composition was estimated using a fundamental parameter calculation.

## Results & Discussion

Figure 1 shows a low-magnification image of the "As-Received" sample. The sample contained a mixture of brown candy fragments and black particles. A scanning electron image of the crushed black particle can be seen in Figure 2.

EDX elemental data was collected for the hard black particle and the candy fragment (Table II). The chemical similarity between the black particle and the candy along with a higher C to O ratio in the hard black particle suggested that the hard material are fragments of carbonized or burnt candy.



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Figure 3: EDX Spectrum of Black Particle in Sample 20160187-01

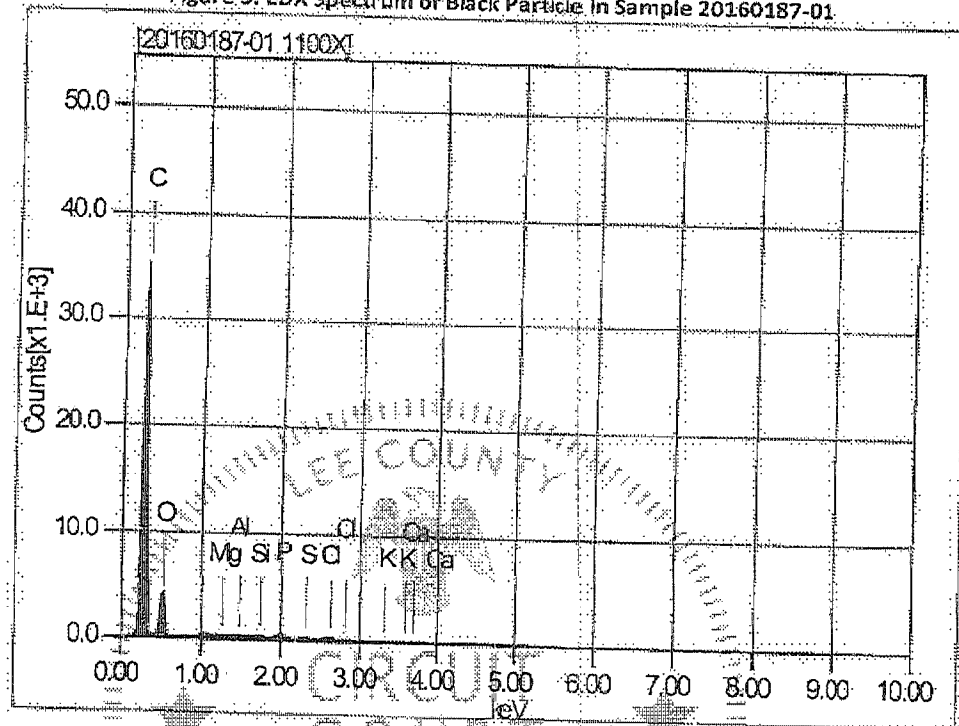
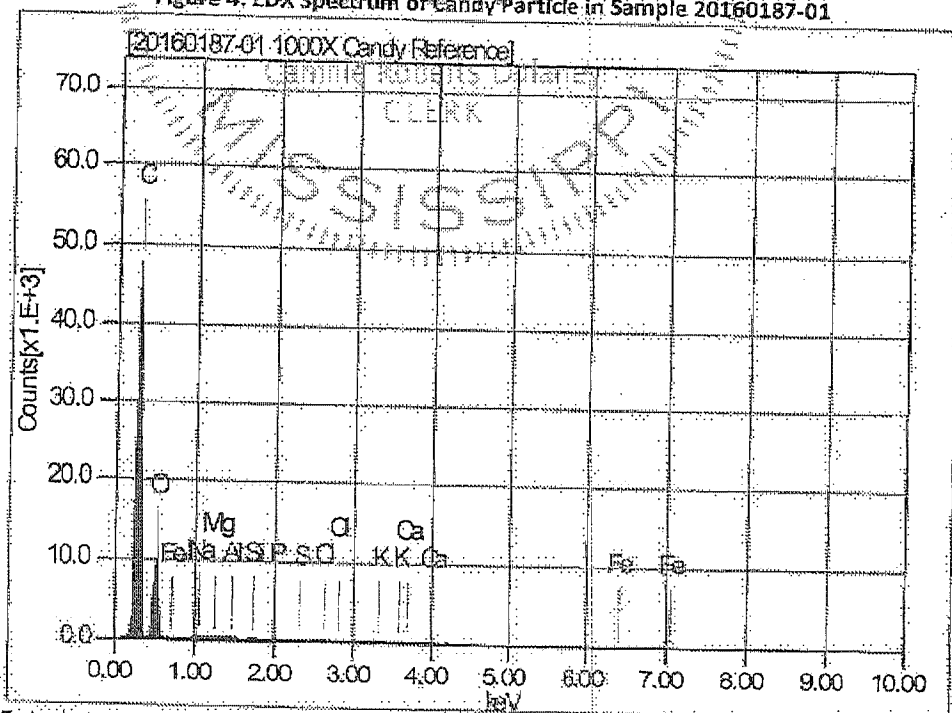


Figure 4: EDX Spectrum of Candy Particle in Sample 20160187-01



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Figure 1: Optical Image of "As-Received" Sample 20160187-01

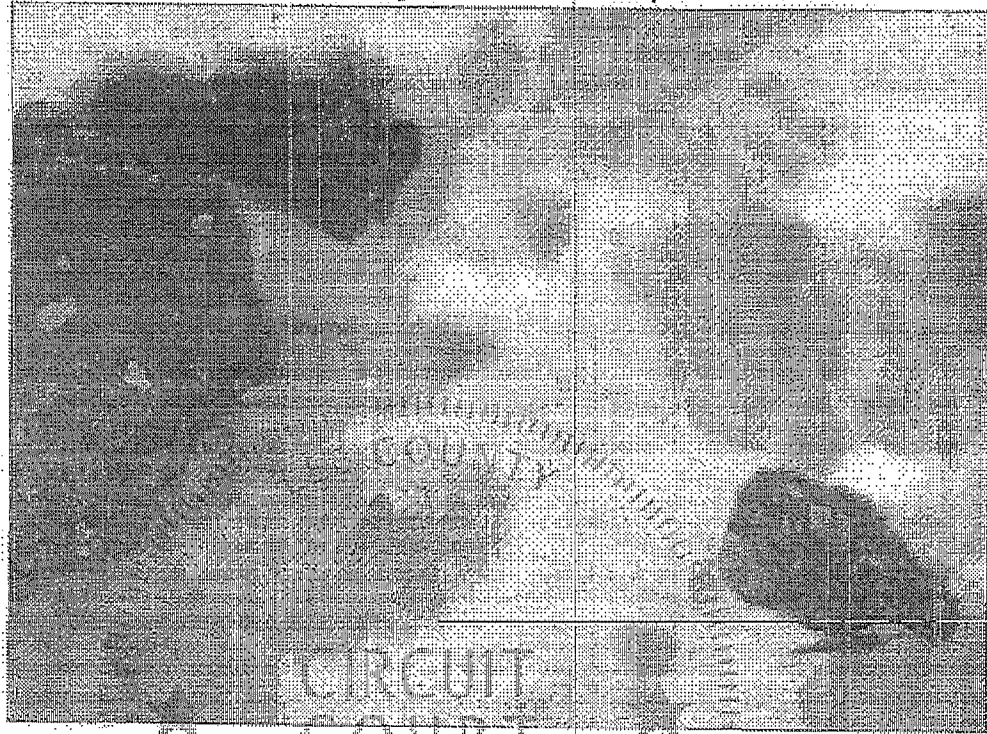
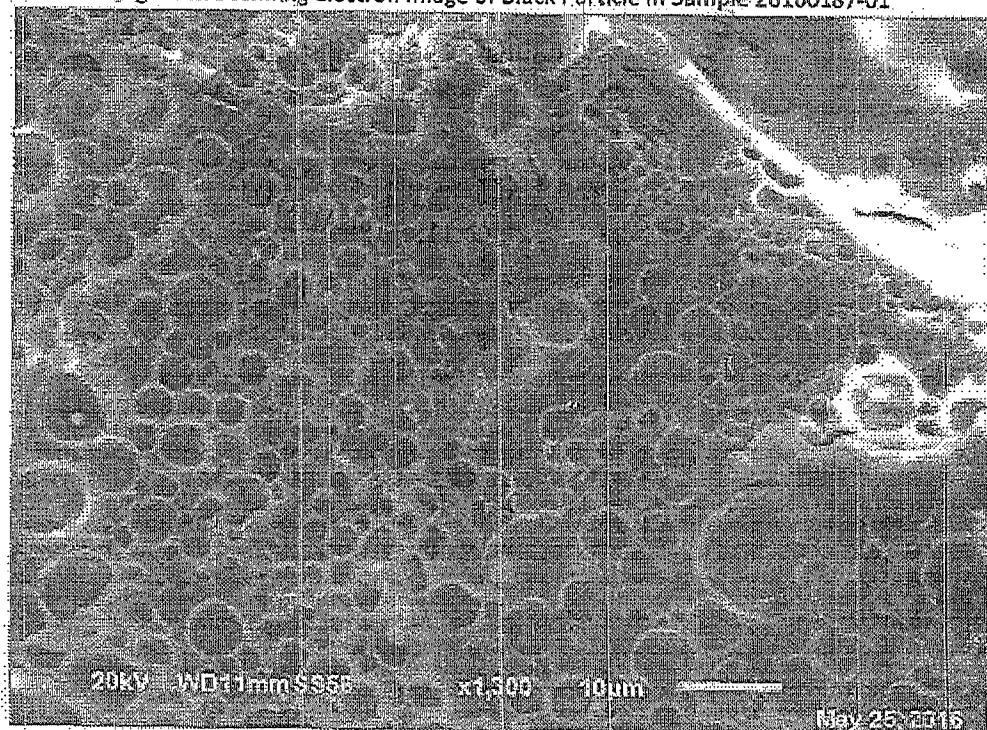


Figure 2: Scanning Electron Image of Black Particle in Sample 20160187-01



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